

REMARKS

Reconsideration of the above-identified application is respectfully requested.

Original claims 1 to 8 have been canceled and claims 9 to 15 have been presented herewith in a sincere effort to overcome all of the rejections interposed by the Examiner, particularly the rejections under 35 U.S.C. § 112.

The Examiner had objected to the drawings under 37 C.F.R. 1.83(a) as not showing every feature of the invention specified in the claims. A new drawing, Figure 5, has been presented herewith to illustrate what was described in the specification and originally claimed as an extensible piston or some other clamping element to grasp the lateral edge of a pouch to be picked up in a clamping manner. This description is on page four of the specification and new Figure 5, without adding new matter, merely illustrates the concept disclosed there. Additionally Figure 4 has been amended only to include a new numeral 28 to clarify the direction in which the gripper elements move. Entry of the new drawing is respectfully requested. Additionally, Figures 1 to 3 have been designated by the legend such "Prior Art."

Based on the rejections on the merits, the Examiner had rejected originally presented claims 1, 4, 5 and 7 under 35 U.S.C. § 102(b) as being anticipated by Restle et al. (5,315,807). The Examiner took the position that Restle et al. discloses an apparatus and method to pick up and fill a sealed rectangular pouch (23-24) having two long sides and a bottom side with a bottom fold; and a gripper mechanism with a plurality of gripper elements (A, B, 31, 32) (see Fig. 2). This position is respectfully traversed. What the Examiner has called gripper elements, 31 and 32, are vacuum sources to sense the effectiveness of the seal. These are described in Restle et al. in column 4, line 19 through 30 is merely being for the purpose of sensing the seal areas 22 by detecting a change in the vacuum pressure in lines 31 and 32. (See column 4, lines

62 through 68.) These are not gripper elements which are moved between adjacent upper longitudinal sides of adjacent pouches.

Accordingly Restle et al. fails to anticipate newly presented claim 9 and cannot be applied to reject claim 9 under 35 U.S.C. § 102. Claims 11 through 15 are dependent on claim 9 and accordingly are allowable.

The Examiner also rejected originally presented claims 1 and 4 under 35 U.S.C. § 102(b) as being anticipated by Carlsson et al. (3,822,538). The Examiner took the position that Carlsson et al. discloses an apparatus and method to pick up and sealed rectangular pouches with a plurality of gripper elements (12, 12), and a gripping carrier (11). The gripper elements that the Examiner points out in Carlsson et al. reciprocates vertically and are not placed between each pouch as required by claim 9 but are used to grasp a plurality of packages to place the group of packages into a suitable container. Thus, Carlsson et al. fails to show the gripper elements moving in a longitudinal direction between adjacent upper longitudinal sides of adjacent pouches as recited in newly presented claim 9.

The Examiner also rejected claim 2 under 35 U.S.C. § 103 (a) as being unpatentable over Carlsson et al. Newly presented claim 10 corresponds to original claim 2, but since Carlsson et al., as noted above, fails to teach or suggest critical limitations now included in claim 9 upon which claim 10 depends, the rejection under 35 U.S.C. § 103(a) of claim 10 cannot be maintained as well.

The Examiner had also rejected claims 1 to 4 and 6 to 8 under 35 U.S.C. 103(a) as being unpatentable over Wiehahn (3,473,725) in view of Breckenridge (885,580) or German Patent 369,991. Wiehahn merely discloses a package and there is no suggestion in Wiehahn of using any kind of gripper mechanism to move or pack packages as disclosed Wiehahn. Thus an

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attempt to engraft teachings from either Breckenridge or the German Patent into Wiehahn to craft the rejection absent any suggestion of the combination in the basic reference to Wiehahn is impermissible.

It is also further pointed out that Breckenridge does not show a gripper mechanism as positively recited in claim 9 having gripper elements moved between adjacent upper longitudinal sides of adjacent pouches in a longitudinal direction. Breckenridge merely shows a canned fork or can lifter where the cans are impaled directly and not by grippers which face longitudinal sides. Similarly, the German Patent shows the same type of mechanism. Thus, there is not teaching or suggestion in either Breckenridge or the German Patent to have gripper elements move between adjacent upper longitudinal sides of adjacent pouches in a longitudinal direction. Accordingly, any rejection under 35 U.S.C. § 103 using Wiehahn, Breckenridge or the Germany Patent cannot be maintained.

Conclusion

Accordingly, in view of the above amendments and remarks favorable reconsideration and allowance of the application is respectfully requested.

Applicants request a three month extension of to respond to this office action and our check in the amount of \$930.00 is enclosed as the requisite fee.

In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

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The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

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